

**Village of Indian Head Park
201 Acacia Drive
Indian Head Park, IL 60525**

**MEETING MINUTES
BOARD OF TRUSTEES**

“Pursuant to 5 ILCS 120/2.06 (3) minutes of public meetings shall include, but need not be limited to: a general description of all matters proposed, discussed, or decided, and a record of votes taken.”

**Thursday, September 10, 2009
7:30 P.M.**

★ CALL TO ORDER - MAYOR RICHARD ANDREWS

The regular scheduled meeting of the Village of Indian Head Park Board of Trustees was held on Thursday, September 10, 2009 at the Municipal Facility, 201 Acacia Drive, and was called to order at 7:30 p.m. by Mayor Richard Andrews. Village Clerk Joseph Consolo called the roll as follows:

★ ROLL CALL: JOSEPH CONSOLO, VILLAGE CLERK

PRESENT (AND CONSTITUTING A QUORUM):

Mayor Richard Andrews
Trustee Debbie Anselmo
Trustee Brian T. Bailey
Trustee Anne Bermier
Trustee Carol Coleman
Trustee Norman L. Schnauffer
Trustee Matthew P. Walsh II

ALSO PRESENT:

Frank Alonzo, Chief of Police/Administration
Steve Busa, Treasurer
Joseph V. Consolo, Village Clerk
Richard Ramello, Counsel, Storino, Ramello & Durkin
Edward Santen, Water/Public Works Superintendent

★ PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Richard Andrews and the Board of Trustees led the audience in reciting the Pledge of Allegiance to the Flag: *“I Pledge Allegiance to the Flag of the United States of America and to the republic for which it stands, one nation under God indivisible with liberty and justice for all”*.

★ MAYOR'S REPORT

Mayor Andrews stated that information was received from the Cook County Department of Public Health asking the Village to inform residents of the upcoming flu season and measures to take to stay informed as flu season progresses by visiting the following Website: www.cookcountypublichealth.org. He also noted that there is a Swine Flu hotline number at (708) 492-2828 and it would also be helpful to check with your healthcare provider to determine whether you should receive a flu vaccination.

Mayor Andrews stated that the date of September 11th is a significant date in history to recall the attack on our nation that happened on September 11, 2001. Mayor Andrews mentioned that there is a service commemorating September 11th at the American Legion Post on LaGrange Road at about 7:30 a.m. Mayor Andrews added that by resolution Congress designated that date as Patriot Day. On that tragic day eight years ago, 2,974 people died when the four hijacked airplanes hit the World Trade Center and Pentagon. Mayor Andrews stated that twenty-four people are still missing today and he asked residents to fly a flag on Patriot Day out of respect for those that perished in the September 11th attack as well as for all military forces serving around the world to protect our freedom. He read the following poem into the record entitled: *"The Lady" I wonder what she thought as she stood there strong and tall, she couldn't turn away. She was forced to watch it all. Did she long to offer comfort as her Country bled. With her arm forever frozen, high above her head. She could not shield her eyes, she could not hide her face, she just stared across the water keeping freedoms place. The smell of smoke and terror somehow reduced her size, so small within the harbor but still we recognize how dignified and beautiful on a day so many died. I wonder what she thought and I know she must have cried.*" Mayor Andrews and the Board paused for a moment of silence in memory of the victims, their families, first responders and our nation that still suffers from the effects of the terror attack on September 11th.

★ CONSENT AGENDA

Approval of Motor Fuel Tax Program Resolution for Maintenance of Streets (Resolution #R9-09-1)

Trustee Schnaufer moved, seconded by Trustee Bermier, to approve the consent agenda, as presented. Carried by unanimous roll call vote (6/0/0).

Ayes: Trustees: Anselmo, Bailey, Bermier, Coleman, Schnaufer, Walsh

Nays: None

Absent: None

★ APPROVAL OF BOARD MEETING MINUTES

Minutes of the Regular Board Meeting - August 13, 2009

After review of Board meeting minutes, Trustee Coleman moved, seconded by Trustee Anselmo, to approve the August 13, 2009 regular Board meeting minutes, as presented. Carried by unanimous voice vote (6/0/0).

★ **FINANCIAL REPORT - TREASURER STEVE BUSA**

Approval of Financial Report for the month ending August 31, 2009

Treasurer Busa presented the financial report for the month ending August 31, 2009. He noted: (1) total revenues were \$228,516.70; (2) expenditures were \$261,803.67 and; (3) total fund balances in all accounts at the end of August were \$459,102.15.

Trustee Schnaufer moved, seconded by Trustee Bermier, to approve the financial report for the month ending August 31, 2009 as presented by Treasurer Busa. Carried by unanimous roll call vote (6/0/0).

Ayes: Trustees: Anselmo, Bailey, Bermier, Coleman, Schnaufer, Walsh

Nays: None

Absent: None

★ **AGENDA ITEMS**

1. Continuation of Discussion, Consideration and Possible Vote to Grant Zoning Relief Requested for an In-Ground Pool, Safety Fence and Landscape Enhancements at 11145 Ashbrook Lane.

Mayor Andrews stated that the zoning matter with regard to 11145 Ashbrook Lane initially was heard in a public hearing process before the Planning and Zoning Commission in April and was continued to several meetings over the past few months to review plan revisions. He noted that the Board will consider a final vote on the zoning petition to approve the current plans before the Board this evening. Mayor Andrews stated that Mr. & Mrs. Nix or their representative will discuss plan changes, questions or comments will be discussed by the Board of Trustees and questions or comments will be received from members of the audience. Mayor Andrews summarized the following current design plan changes for the property located at 11145 Ashbrook Lane: (1) at the August meeting, Mr. Nix and his pool contractor requested additional time to redesign the pool plan to address concerns pointed out in a report from the Village's plan review consultant; (2) Barrington Pools revised the plans and those plans were submitted to the Village and approved by the Village's plan review consultant as well as the Village engineer; (3) all technical items identified by the Village's plan review consultant were addressed by Barrington Pools and incorporated in the current design plans; (4) a zoning process is required to grant an amendment to the previously approved Ashbrook Planned Unit Development. He noted that the Board will vote on that matter this evening; (5) an informal meeting was held last Wednesday to discuss the current design plans for the proposed pool.

The following were in attendance: Mr. Eck from the Ashbrook Townhome Association Board as well as Mr. Kim, Ashbrook Townhome Association attorney, Frank Alonzo, Mayor Rich Andrews, Trustee Debbie Anselmo, as well as Mr. Nix and his attorney Mr. Dose; (6) the purpose of the meeting was to review the current plans and to identify any issues of concern; (7) the current drainage plans were approved by the Village engineer as well as the current design plans that were reviewed and approved by the Village's plan review consultant.

Greg Dose, attorney for Jim & Gwen Nix, addressed the Board and stated that he is present this evening on behalf of the property owners as it relates to the request for an amendment to the Ashbrook Development Planned Unit Development for an in-ground pool at 11145 Ashbrook Lane. He noted that Steve Hopkins from Barrington Pools is also present. Mr. Dose thanked the Board for conducting the informal meeting that was hosted by the Village to discuss the proposed plans. He noted that the property owner hopes to move forward with a determination on the zoning matter this evening. Mr. Dose summarized the following changes that have been made to the current pool design plans reviewed and approved by Village consultants: (1) Barrington Pools has lowered the pool deck area elevation to reduce the grade level by about two-feet; (2) there will be three or four steps down to grade off the back of the house down to the pool deck area; (3) the retaining wall on the east and west sides of the pool deck has been reduced so there is no encroachment into the rear and side yard setbacks; (4) self-latching and locking gates are provided as part of the fence structure at the points of entry to the pool areas; (5) the grading plan was adjusted when the changes were made to the retaining wall area so the grade will be maintained at the proper level; (6) current plan revisions were submitted for review and have been approved by Village consultants.

Mayor Andrews asked if the retaining wall structures closest to the house are now within the buildable area of the property and not encroaching any yards. Mr. Dose responded, yes. Trustee Walsh stated that there were concerns previously from neighbors about possible impact on an adjacent property if equipment is brought through the side yards. Mr. Dose stated that construction access will be through the west side yard of the Nix's property, construction fencing will be installed and the pool contractor will stay within the boundary lines of the Nix's property when the equipment is brought into that area. Mayor Andrews stated that the Ashbrook Townhome Association is not willing to allow access to the easement swale area on the east side of the property for the equipment access. Mr. Dose stated that the easement area on the east side of the property will not be used for equipment access.

Mayor Andrews stated that there were several letters received since last week's informal meeting regarding this zoning matter. He noted that all of the letters were distributed to the Board and read. For the record, he noted there were approximately eighteen letters from Ashbrook Townhome property owners who oppose the pool for various reasons.

Mayor Andrews summarized the following items of concern mentioned by the Ashbrook Townhome Association Board and their members: (1) the size of the pool; (2) the no fence policy in the Ashbrook area; (3) the height of the landscaping upon installation; (4) the sight lines and visual impact that the pool would have upon the area; (5) safety concerns; (6) ecological concerns; (7) concern about the swale area; (8) impact of ambience in Ashbrook; (9) light pollution; (10) economic impact that the pool would have on other property values within the development; (11) one townhome owner also mentioned in their letter that traffic would also be increased in the area if the pool were constructed; (12) two persons were opposed to the pool but did not state a reason; (13) the Ashbrook Townhome Association Board opposes the installation of the pool and has circulated a letter to its constituents encouraging property owners to write letters to the Village Board. Mayor Andrews further noted that correspondence was also received from the Ashbrook Estate Homes Single Family Association who stated that they are satisfied to rely on the Village Board's process with respect to zoning matters and that they have never taken a position in the past or present concerning a request for zoning relief by an Ashbrook single family homeowner. Mayor Andrews noted that the Ashbrook Estate Homes Association Board believes that the zoning process established by the Village provides everyone with an opportunity to voice their concerns or support for a particular zoning petition.

Mayor Andrews stated that numerous letters were also received from single family homeowners within the Ashbrook Development who unanimously support the pool project as well as townhome owners who oppose the pool project. For the record, Mayor Andrews stated that all of the letters received were copied and distributed to the Village Board prior to the meeting this evening. A letter from a seven year resident of Ashbrook was read into the record in part by Mayor Andrews as follows: *"although the covenants for the Ashbrook single family homes does permit construction of swimming pools and tennis courts, I believe granting Mr. Nix's request would not be in the best interest of Ashbrook residents for the following reasons: noise especially late at night would carry across the south pond and would be a nuisance to residents besides the proposed pool of 47' by 16' is too much for the lot. It would potentially limit the area available for adequate landscaping. The deck of a second floor unit in a townhome building, Building #25, adjacent to the Nix property faces east and would look directly down upon the pool. No matter what type of landscaping is installed it prevents the townhome unit owner from enjoyment of their deck. Many Ashbrook residents strongly believe the situation will negatively affect the sale price of their units. The only access for heavy equipment is across the swale from the east of the property. Should it be built, it would be the only pool in Ashbrook and it would set a precedent that would potentially change the entire ambience of the area. The landscaping and fencing required by the Board of Trustees will interrupt the open yards and green space that has attracted new residents to purchase townhomes and single family homes. Despite, my opposition I fully recognize the Ashbrook covenants allow for the construction of pools in the single family home area and the following suggestions are being offered to protect Ashbrook residents: should the request be approved, Mr. Nix should be required to escrow adequate funds to cover the purchase and installation of mature landscaping upon completion of the pool.*

The pool will obviously disrupt the quality of life enjoyed by residents near Mr. Nix. Therefore a construction timeline for the project should be established. If it is not completed within that period of time, then a fine should be imposed. Any and all damage to the swale will be the sole responsibility of Mr. Nix and he should be required whatever amount it takes to return the swale to its original condition. In addition, Mr. Nix should be responsible for any water damage to the single family or townhome area that occurs as a result of damage to piping”.

Mayor Andrews read a letter from a resident of the Ashbrook Single Family Estate Homes section of Ashbrook as follows: *“Dear Mayor Andrews, I am writing to express our support for Jim and Gwen Nix’s proposal to install an in-ground swimming pool in their backyard. It has long been my experience with the Village, formerly as a planning and zoning commissioner and currently as a police and fire commissioner, that the spirit of the Village has always been to allow and support change, as long as that change is within legal guidelines and covenants. In-ground pools and tennis courts are allowed in the Ashbrook covenants. Jim and Gwen Nix have been cooperative and flexible in their plan and as I understand, have come into full compliance with our zoning requirements for in-ground pools. I find it inconceivable that their plan should be delayed any longer. As a Village, we have sought to listen, understand and make sound legal judgement based on facts, not on personal agendas. Again, the Nix’s have our full support for this project”.*

Mayor Andrews stated that a member of the Ashbrook Townhome Association Board mentioned a no fence policy in the Village. Mayor Andrews further stated that a safety fence is required by ordinance as it relates to the installation of an in-ground swimming pool as well as landscaping that is required to be planted to screen the fence. Mayor Andrews noted that Mr. Nix agreed to plant Arbor Vitae at least six-feet in height (6') at the time of planting to screen the fence and in some locations the evergreens will be nine-feet (9') in height at the time of planting. Mayor Andrews stated that a neighbor to the west mentioned a concern about visual impact and their view would be impacted by the installation of the pool, fence and landscaping. He noted that whether someone has a pool or not in their backyard, the Village has no authority to prohibit someone from planting a tree or bush in their backyard or a row of trees. Mayor Andrews stated that the Village code requires landscaping to be installed around safety fences in connection with in-ground swimming pools. Mayor Andrews asked Mr. Nix how the pool would be winterized as it relates to concerns that were raised with run-off of chlorinated water into the pond or other area. Steve Hopkins from Barrington Pools responded that the pool will have a salt water generator so the chlorine level will be very low parts per million. He noted that when the pool is winterized for the season any chlorine will be neutralized and there is an overflow system that will be installed with the pool for any excess water to be drained into the sanitary system, if needed.

Mayor Andrews asked Mr. Nix’s attorney if any external lighting was proposed that would shine outside of the property lines. Mr. Dose responded, no. Mayor Andrews stated Mr. Nix mentioned that underwater speakers would be installed in the pool and he asked if external audio speakers would also be installed around the pool area.

Mr. Nix stated that underwater speakers would be installed as part of the pool project. Mayor Andrews stated that Mr. Eck, on behalf of the Ashbrook Townhome Association Board, previously asked if a restriction could be placed on the sound level after certain hours regarding noise from the pool or to restrict the hours of use of the pool. Mayor Andrews stated that the Board could set requirements in the ordinance granting an amendment to the Ashbrook P.U.D. for the Nix property. However, the ordinance would not be to enforce a noise restriction because it might be difficult to determine if noise is coming from a pool party or a neighbor who might be having a larger backyard party for a birthday, anniversary, or other family gathering. Chief Alonzo stated that the Village has a general nuisance ordinance in place. He noted that if someone calls the Village about a noise disturbance, an officer would visit any property to determine if there is a violation. Mayor Andrews stated that Mr. Nix has previously agreed that as a condition of approval the following pool accessories would not be installed: a diving board, slide, hot tub, above pool outdoor audio speakers or bubbler. Mr. Dose, Mr. Nix's attorney, stated that the current plan does not reflect a diving board, a slide, in-pool spa or bubbler fountain feature. He noted that with regard to the outside audio speakers there would be no more noise than someone else who might be listening to music in their yards. Mr. Dose further stated that he objects to a limitation on hours of use of the pool as suggested by the Townhome Association Board. Mayor Andrews stated that if an ordinance is approved to grant the zoning relief requested, it will set forth certain conditions and a specific pool design plan. He noted that other pool options cannot be added later.

Mr. Eck, a member of the Ashbrook Townhome Association Board, thanked the Board of Trustees for their time and consideration for the long and arduous task through the summer in considering the request for an in-ground pool at 11145 Ashbrook Lane. Mr. Eck stated that the items summarized by Mayor Andrews reflect the concerns of the Ashbrook Townhome Association members. Mr. Eck stated the Ashbrook Townhome Association land planner is present this evening. He asked if he could comment on the plans submitted. Steve Lenet, of L.C.T. Design Group, stated that he is a landscape architect and urban land planner. Mr. Lenet stated that upon review of the grading plan it appears that the pool deck is encroaching into the side yard in the southeast corner of the property. He noted that it appears the plan is drawn incorrectly with regard to the rear yard along the east side. As a result, it appears the pool decking is encroaching into the side yard. Mr. Lenet stated if that is the case, the Village ordinance requires that a zoning variation would be required for an encroachment into the side yard. He added that no variation has been requested at this time for the encroachment. Mr. Lenet stated that he is familiar with Village codes and he was also retained by the Village attorney previously as a consultant on another fence matter in the Village. Mr. Lenet further stated that the proposed fence for the in-ground pool does not appear to meet code. He noted that the ordinance for safety fences calls for a solid fence of cedar or redwood and the proposed fence is made of wrought iron which would require a variance from the code. Mr. Lenet stated that the landscaping plan calls for 6' to 9' Arbor Vitae along the south property line. He noted that there is a substantial difference between six-foot and nine-foot Arbor Vitae and the Village needs to know where those trees will be planted for screening.

Mr. Lenet stated that typically when trees are installed there is generally a one-year guarantee. Mr. Lenet stated that it would be reasonable if a special use is granted by the Board that there is a perpetual guarantee that any evergreens that do not survive would immediately be replaced. Mr. Lenet stated that Arbor Vitae generally do well in a dry well drained environment and the property is not a dry and well drained environment because the property is graded down to the retention area. Mr. Lenet stated that the nature of a special use is that certain conditions can be set forth under the ordinance on a case by case basis. He added that although a special use may be permitted by ordinance the granting of a special use may have some impact on adjacent residential properties. Mr. Lenet stated that it appears there are two variations that are needed based on the plans submitted to the Village and he is aware that the plans were reviewed by Village consultants. He noted that the pool deck seems to be encroaching into the side yard setback of the property and the property owner has not requested a variation for the encroachment. Mayor Andrews stated that he understands the pool deck at grade, or patio, is defined as a permitted encroachment into the yard because it is not a structure if it is less than twelve inches (12") above grade. Mr. Lenet stated that **Section 17.12.100 of Title 17 Zoning, Permitted Obstructions**, states that in rear yards private in-ground pools are permitted to encroach in the rear yard but obstructions into the side yard are not permitted except by variation. Mayor Andrews stated that an amendment to a Planned Unit Development grants a variation for a specific plan that includes many plan details and the zoning relief granted would be in accordance with that plan. Mr. Lenet stated that he believes that individual variations should be listed when someone requests a special use to amend a Planned Unit Development and the property owner never requested a variation.

Rich Ramello, Village counsel, stated that at grade concrete work, sidewalks, patios, driveways, and so forth are not considered obstructions. He noted that based on Mr. Lenet's interpretation of the code, someone would not be able to construct a driveway from the front of their house to the curb because that would encroach into a required yard. Counsel Ramello stated that the Village's interpretation is that concrete flat work at grade is not considered an obstruction that would require a variation. Mr. Lenet stated that driveways are accepted as encroachments into front and side yards which is specifically enumerated in the ordinance as a permitted obstruction. He added that the pool decking is part of the pool and it is encroaching into the side yard. Mayor Andrews pointed out to Mr. Lenet that in November of 2008, the Village amended the swimming pool section of the Municipal Code as a result of a fence issue that took place at that time. He noted that the safety fence requirements were also updated at that time and incorporated in the swimming pool code. In response to Mr. Lenet's comments regarding the Village's fence requirements, Mayor Andrews stated that the most recent amendment to the swimming pool ordinance states: *"fences and gates shall be a minimum of five-feet in height at walk grade level and shall be constructed of wrought iron or aluminum material or other corrosion resistant material approved by the building inspector. The fence shall give the appearance of being a wrought iron fence with vertical fencing sufficiently close so that a child cannot pass between the vertical fencing"*.

In response to Mr. Lenet's comments regarding maintenance of the evergreens to be installed around the safety fence, Mayor Andrews cited the following from the current ordinance: "*such screening shall be subject to the final approval of the Village building inspector and the screening shall be maintained so long as the swimming pool and safety fence exists*". Mayor Andrews stated that Mr. Lenet raised a valid concern that any evergreens that need to be replaced will be planted at a comparable size as originally planted. Mayor Andrews stated that the Village's building inspector will inspect the landscaping to insure it is completed according to the requirements of Village codes.

Donna Smith, a member of the Ashbrook Townhome Board, stated that a petition with over one hundred signatures from Ashbrook Townhome owners was previously submitted to the Village in opposition of the pool project. She noted at the Planning and Zoning Commission meeting in June, 2009, one of the zoning commissioners commented that swimming pools were allowed in the Ashbrook declarations and a response by another commissioner was that although the Ashbrook covenants may list swimming pools, the Village's zoning code also needs to be reviewed as it creates a unique problem within the development for neighboring properties. Donna Smith stated that a single family home in Ashbrook is not entirely surrounded by just estate homes and there are many neighboring townhome properties within the development as well. She noted that the covenants still need to be reviewed based upon the entire development area and changes that might affect other property owners. Donna Smith stated that noise will be an issue when there is a body of water close to residential areas.

Mervet Virzivolli, of 11155 Ashbrook Lane, stated that she is the property owner next to the Nix property. She asked why access for heavy equipment would be allowed on one side of the property but not on the other side when there is the same amount of space between the properties on both sides. Mayor Andrews stated that the open swale area on the east side of Mr. Nix's property is owned and maintained by the Ashbrook Townhome Association and the property owner must stay within his own property boundary lines in the side yards for equipment access. Greg Dose, Mr. Nix's attorney, stated that the east side of the private property boundary will not be used for equipment access due to mature trees in that area, existing landscaping and a retaining wall. Steve Hopkins stated that equipment to be used for excavation for the pool is about 7' in width and will be brought in entirely on the Nix private property boundaries, the soil will be removed by trucks and orange silt and construction fencing will be installed on the site to keep any construction debris within the property boundary until the project is completed.

Trustee Walsh inquired about the time period to complete the project from excavation, installation of the pool and installing the safety fence and landscaping. Steve Hopkins stated that if the Village approved for the project to proceed, most of the project could be completed within four to six weeks from the issuance of the building permit.

Judy Edwards, of 11009 Edgebrook Lane, stated that the pool contractor stated he does not want to use the east side of the property for equipment access so it does not disturb the property owners trees or landscaping.

She added there is no problem using the west side of the property, the townhome association would be affected and that is also not a concern. Mr. Nix stated that there is no other option but to use the west side of the property for equipment access because the Ashbrook Townhome Association will not allow access over the swale area. Mayor Andrews mentioned that there is a dead tree on the west side of the Nix property that needs to be removed and that is the area where the equipment will access the property. Donna Smith stated that she has concerns that the pool will not be completed this year and there will be many months with a view of a construction area that is not completed. She asked if the project cannot be completed this year that the project not be started until next year so the townhome owners are not affected by an on-going construction project. Steve Hopkins stated that if a permit is issued, the work can start rather quickly and can be completed in about six weeks if weather conditions are good.

Mark Phinick, of 11160 Glenbrook Lane, stated that there is precedent in Indian Head Park for in-ground pools, for safety fences and common water is shared within the development area where people enjoy the scenic surroundings. He noted that both associations decided upon water in the development. Mark Phinick mentioned that he as well as many of his neighbors have outdoor patio speakers in their yard for enjoyment. He asked if the Board has intentions to discriminate against the Nix's because they have a pool to not allow audio speakers outside of the pool area.

Mr. Verzivolli asked if this is the beginning of allowing fences in Indian Head Park. Mayor Andrews pointed out that the zoning code was established in 1964 which sets forth regulations that fences are not allowed except for safety. He further noted that the swimming pool section of the code requires a safety fence to screen in-ground swimming pools. Mayor Andrews stated that every in-ground swimming pool in Indian Head Park has a safety fence and there are also landscaping requirements to screen the fence. Mayor Andrews stated that the Village code regarding safety fences and landscape requirements was updated last year.

Kathie Mc Reynolds, of 11116 Edgebrook Lane, stated that she purchased a townhome in Ashbrook Development in the spring because of the open setting, the ponds, the fountain and ambience of the development. She stated that there will be a direct view of the swimming pool from the townhome area, there will be noise from the pool and the surroundings of Ashbrook will be changed. She asked if there are guidelines set forth in the Village code for use of pools. Mayor Andrews stated that there are no code regulations for pool use hours.

Martha Triantafel, of 11075 Glenbrook Lane, stated that it is almost six months from the first public hearing date on this zoning matter and the same issues are being discussed again by the townhome residents. She stated that when she purchased her home in Ashbrook several years ago she knew she would be sharing a community with the townhome section and there were also young families in the single family home area. Martha Taintafel stated that letters were circulated by the townhome association members calling the Nix family children possible teenage nuisances.

She added that most everyone has children, grandchildren, nieces, nephews or other family members that they enjoy spending their time with at their home. Martha Triantafel stated that Gwen and Jim Nix's children are good kids and she does not recall one negative comment from the single family area about the Nix family.

Michael Kryza, of 11070 Ashbrook Lane, stated that he went through a zoning process for his property in Ashbrook for an amendment to allow for a deck extension around the same time Jim and Gwen Nix filed a zoning petition for the in-ground pool in the spring. He noted the zoning commission reviewed his petition, architectural drawings were submitted and reviewed and he received approval from the zoning board as well as the Village Board. He noted that he has already enjoyed the new deck that was constructed this summer and he thanked the Board for approving his request. Mr. Kryza stated that all of the procedures were followed, the zoning commission made their decision and recommendations to the Board based on the ordinances and the argument over the last six months with regard to the Nix property has been an emotional argument. He added that the Nixs' have provided several sets of revised drawings to address many concerns, they have met the requirements of the ordinances and have continued to go back to zoning for approvals. Michael Kryza stated that it is time to say the property owners have addressed everything that has been asked of them relative to the pool project.

Greg Dose stated with regard to visual impact the Nix property already has five large existing mature Bradford pear trees at the south edge of the property, the pool area will be entirely constructed within the foliage area that will be heavily screened with evergreens around the safety fence. Mr. Dose stated that he is not in favor of the idea of limiting the use of the pool and he asked Chief Alonzo how many complaints have been received by the Village regarding noise from pool parties. Chief Alonzo stated that during his time as Chief he does not recall any incidents of noise disturbances from pool parties that have been reported to the police. Greg Dose stated that in-ground pools are a permitted use in the rear yards of properties in residential districts as well as permitted uses in the Estate Home declarations. He noted that the Village has a nuisance ordinance in the code if there are disturbances that would fall under that reference. Mr. Dose stated that it is not a good idea to impose a unique restriction on a single household but rules for everyone should be established on a Village wide basis.

Gwen Nix, of 11145 Ashbrook Lane, stated that the zoning process has been a difficult one for her family and that she and her husband and children have been good neighbors in the Ashbrook area for about 11 years. Gwen Nix stated that she selected one of the largest lots from the builder when her home was built so that at some point an in-ground pool could be added as allowed in the covenants. Gwen Nix stated that she takes pride in her five children and mentioned that the whole process is turning to an emotional personal level with all the comments about the pool.

Mayor Andrews stated that it is a difficult issue, many of the items that come up are routine matters and input from all parties is important before decisions are made on any matter. He noted that there are certain existing factors that have to be addressed.

Mayor Andrews stated that it is obvious that the developer when the Ashbrook Development P.U.D. was created contemplated pools and mentioned it in the covenants from the beginning, the Ashbrook Estate Home Association approved the request based on their covenants and by-laws, the Village does allow pools according to the code and there are other swimming pools in town. Mayor Andrews stated at the beginning of the process a full public hearing before the Planning and Zoning Commission was conducted and a recommendation was presented to the Board to grant the request for an in-ground pool with certain conditions. One of those conditions was to build a pool without a retaining wall because it was added as an option to the original plan. Mayor Andrews stated the petitioner had many plan revisions along the way through the process and the Board is considering this evening whether to approve a request to grant an amendment to the Ashbrook Planned Unit Development to allow for an in-ground pool at 11145 Ashbrook Lane.

Trustee Coleman commented that the matter before the Board is whether to amend the Ashbrook Development Planned Unit Development which is R3A P.U.D. to allow for an in-ground swimming pool. She noted that when Ashbrook Development was first proposed there were many meetings, workshops and hearings before the Village Board and Planning and Zoning Commission with the developer. Trustee Coleman stated that the property was annexed to Indian Head Park in 1995, a zoning designation was established for the property, under R-1 zoning the minimum lot size is 20,000 square-feet, and lots would have a total combined side yard of twenty-five feet but not less than ten-feet on either side. Trustee Coleman stated that she served on the Village Board at the time and the Board worked hard to determine what would be best for the Village with the development of Ashbrook. After many meetings with the developer R3A P.U.D. for zoning was decided with a mixture of single family homes and townhomes for the property. She noted the R3A P.U.D. zoning has a minimum of 10,000 square foot lots for the estate homes, a ten-foot side yard setback and different floor area ratios were allowed with a much higher density in the townhome section. Trustee Coleman stated at the time a reduction in the corner side yard setbacks was approved as part of the Planned Unit Development as well as street right-of-ways and cul-de-sac areas bringing everything closer together with a higher density. Trustee Coleman stated that she will vote no to amend the Ashbrook P.U.D. because of the density, the Village had no input as far as the Ashbrook covenants when they were put into place and that was decided by the developer.

Trustee Bermier stated that she also served on the Board at the time Ashbrook Development Planned Unit Development was considered. She further stated that she recalled when the room was filled with Acacia residents when Ashbrook Development was proposed. At that time those residents stood up and said I moved here and purchased this home believing that there would always be a golf course. She added that Ashbrook used to be Par 3 Golf Course and now those Acacia residents no longer look at a golf course but everything worked out in the end.

Mayor Andrews entertained a vote to grant the zoning relief requested with the following conditions:

(1) to direct counsel to prepare an ordinance to grant an amendment to the Ashbrook Development P.U.D. to allow for an in-ground swimming pool in accordance with the current set of plans; (2) the pool must be constructed to drain into the sanitary sewer system; (3) no diving board, slide, hot tub, bubbler or other outdoor swimming pool accessory be installed; (4) that no outdoor audio speakers would be installed in and around the pool deck area; (5) that pool lighting be designed to retain the ambient lighting within the confines of the property. Trustee Walsh stated that he is in favor of granting the zoning relief requested. He asked that a specific time period be set forth to complete the pool project, and if the project is not completed by that date, fines can be issued. Trustee Walsh stated that he is not in favor of restricting a property owner from installing a speaker on their pool decking area because it would be governing how a property owner can use their pool or deck. Trustee Bailey stated that he agrees with Trustee Walsh that the condition should be removed that would prohibit the property owner from installing a speaker on their pool deck. He added that the single family homes next to the Nix property will be much closer to the pool than the townhome section and there have been no complaints about noise from pool parties in other areas of the Village.

Greg Dose asked the Board to define completion of the pool project. He noted that the pool, deck, fencing and landscaping can be completed by that date. He noted that the interior pool coating and possibly some of the landscaping restoration of grass areas might be a weather issue and that may need to be done in the spring.

Mayor Andrews stated that approval of an amendment to the Ashbrook Planned Unit Development for the property located at 11145 Ashbrook Lane is conditioned upon and subject to the fulfillment of the following terms and conditions: (1) the swimming pool shall be constructed in compliance with the revised Pool Plan, dated August 28, 2009, prepared by Barrington Pools, consisting of one sheet; the color computer-generated graphic images of the pool installation and associated landscaping, prepared by Pool Studio, not dated, consisting of four sheets; the revised Grading Plan, prepared by W.C. Doland Engineering, Inc., dated April 7, 2009, File No. 11145 Ashbrook, signed and wet sealed by Jason R. Dolan, licensed professional engineer (#55603), and bearing the latest revision date of August 26, 2009; (2) the Landscape Plan, prepared by J. J. Hayden, Inc., dated April 2, 2009, consisting of one sheet, and bearing the latest revision date of July 27, 2009 all subject to the comments prepared by Tim Halik, Plan Review Consultant for the Village; (3) the swimming pool shall be drained into the municipal sanitary sewer system; (4) no diving board, slide, hot tub, bubbler or other outdoor fixed accessory shall be installed on or about the swimming pool at any time; (5) all pool lighting shall be designed and installed so that the lighting illuminates only the pool area, and ambient light to adjoining property is minimized; (6) the construction of the pool bowl, pool deck, the installation of the required permanent fencing and landscaping, the installation and removal of all temporary fencing and the restoration of all property disturbed shall, if commenced in 2009, be completed on or before November 15, 2009, otherwise no construction shall be commenced until the spring of 2010 and, if so commenced in 2010, shall be completed within six (6) weeks of its commencement;

(7) failure to complete the construction of the pool bowl, pool deck, the installation of the required permanent fencing and landscaping, the installation and removal of all temporary fencing and the restoration of all property disturbed on or before the time limits set forth shall be a violation punishable by a fine not less than twenty-five dollars (\$25.00) and not exceeding seven hundred fifty dollars (\$750.00); (8) each and every day that the construction of the pool bowl, pool deck, the installation of the required permanent fencing and landscaping, the installation and removal of all temporary fencing or the restoration of all property disturbed shall be incomplete following the time limits set forth shall be considered a separate offense; (9) except as modified by the relief granted, the swimming pool shall be constructed in compliance with all other provisions of the Indian Head Park Zoning Ordinance, all setback and area requirements of the R-3A General Residence District. Mayor Andrews entertained a motion to grant the zoning relief requested subject to the terms and conditions set forth.

Trustee Walsh moved, seconded by Trustee Bailey, to grant the zoning relief requested for the property located at 11145 Ashbrook Lane as follows: (1) to direct counsel to prepare an ordinance to grant an amendment to the Ashbrook Development P.U.D. to allow for an in-ground swimming pool in accordance with the current set of plans as well all terms and conditions set forth as defined in the meeting this evening to be incorporated in an ordinance prepared by counsel for the Board's approval. Carried by voice vote (5/0/1).

Ayes: Trustees: Anselmo, Bailey, Bermier, Schnaufer, Walsh

Nays: Coleman

Absent: None

2. Award of Bid for Municipal Parking Lot Maintenance Program Upon Recommendation by the Village Engineer

Frank Alonzo stated that the Village engineer received bids for the municipal parking lot rehabilitation project which includes resurfacing of the municipal parking lot as well as curb and gutter work and ADA sidewalk work. He noted that the low bidder was Abbey Paving who submitted a total bid amount of \$66,547.69.

Mayor Andrews noted that the Village refinanced debt certificates previously and some of those funds will be used for the municipal parking lot project. He noted that the parking lot was severely deteriorated and becoming a safety issue. Frank Alonzo stated that he will contact some of the Villages that have used Abbey Paving for their projects to obtain references. Trustee Coleman moved, seconded by Trustee Schnaufer, to award the bid for the 2009 Municipal Parking Lot Maintenance Program to Abbey Paving Company for the bid amount of \$66,547.69, as recommended by Christopher Burke Engineering. Carried by unanimous roll call vote (6/0/0).

Ayes: Trustees: Anselmo, Bailey, Bermier, Coleman, Schnaufer, Walsh

Nays: None

Absent: None

**★ QUESTIONS AND/OR COMMENTS FROM THE AUDIENCE BY INDIAN
HEAD PARK RESIDENTS ONLY**

None

EXECUTIVE SESSION

Trustee Coleman moved, seconded by Trustee Anselmo, to adjourn to Executive Session pursuant to Section 2 (c) (21) of the Open Meetings Act to review closed session meeting minutes as required by Section 2.06 of the Open Meetings Act and 5 ILCS 120/2 (c) (5) to discuss land acquisition. Carried by unanimous roll call vote (6/0/0).

Ayes: Trustees: Anselmo, Bailey, Bermier, Coleman, Schnaufer, Walsh

Nays: None

Absent: None

RETURN TO THE OPEN MEETING

Trustee Schnaufer moved, seconded by Trustee Bailey, to return to the regular Board meeting. Carried by unanimous voice vote (6/0/0). Upon return to the open meeting, Trustee Bailey moved, seconded by Trustee Bermier, to retain all Executive Session Meeting Minutes. Carried by unanimous voice vote (6/0/0).

ADJOURNMENT

There being no further business to discuss, Trustee Coleman moved, seconded by Trustee Anselmo, to adjourn the regular Board meeting at 10:15 p.m. Carried by unanimous voice vote (6/0/0).

Respectfully Submitted,
Kathy Leach, Deputy Clerk/Recording Secretary